

1 Hon. _____
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10 UNITED STATES DISTRICT COURT
11 WESTERN DISTRICT OF WASHINGTON
12 AT SEATTLE
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15 UNITED STATES OF AMERICA,
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17 Plaintiff,

18 Civil Action No. _____
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20 v.
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22 JOHN C. KROACK,
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24 Defendant.
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26 **COMPLAINT**
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29 Plaintiff, the United States of America, by and through its undersigned attorneys, brings
30 this civil cause of action against Defendant, John C. Kroack under the Freedom of Access to Clinic
31 Entrances Act (“FACE”), 18 U.S.C. § 248 (1994), and alleges as follows:

32 **I. NATURE OF ACTION**
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34 1. On January 7, 2010, Defendant used force and physically obstructed the entrance
35 to a reproductive health services facility with the intent to injure, intimidate and interfere with persons
36 seeking and providing reproductive health services. Based upon these and other actions, in bringing this
37 action, the United States has reasonable cause to believe: (1) Defendant has committed, and is likely to
38 continue to commit, violations of FACE; and (2) various persons are being, have been, and will continue
39 to be injured by Defendant’s conduct. Accordingly, the United States seeks, *inter alia*, a permanent
40 injunction against Defendant from coming within 25 feet of the reproductive health services facility in
41 question and a civil penalty.

II. JURISDICTION AND VENUE

2. This Court has jurisdiction over this action pursuant to FACE, 18 U.S.C. § 248(c)(2), and 28 U.S.C. §§ 1331, 1345, and 1355.

3. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391(b)(1) and (b)(2), in that, upon information and belief, Defendant resides in this judicial district and all the events giving rise to this complaint occurred in this judicial district.

III. PARTIES

4. Plaintiff is the sovereign United States of America, which has standing to bring this action pursuant to FACE, 18 U.S.C. § 248(c)(2).

5. On information and belief, Defendant resides in Mountlake Terrace, Washington.

IV. FACTUAL BACKGROUND

6. The Lynnwood Health Center (“Health Center”) is a reproductive healthcare clinic located at 19505 76th Avenue in Lynnwood, Washington.

7. The employees of the Health Center provide, and the patients of the Health Center seek, reproductive health care services.

8. On January 5, 2010, Defendant entered the Health Center waiting room and engaged the Health Center manager in conversation about abortion services. The Defendant grew agitated and exited the Health Center without further incident.

9. Two days later, in the early morning hours of January 7, 2010, Defendant was witnessed walking along the wooded perimeter of the Health Center property.

10. At approximately 10:30 a.m. on January 7, 2010, Defendant entered the Health Center waiting room, and engaged the front desk employee in conversation about abortion services.

11. Defendant became agitated and attempted to open the door that separated the waiting room from the exam room hallway.

12. When Defendant could not open the door, he kicked the door several times, and threw his shoulder and body against the door several times.

13. As the Defendant struck the door, he yelled: "You baby killers! You are all going to hell for being murderers."

1 14. Defendant's blows impacted a Health Center nurse, who had pressed his body
2 against the reverse side of the door in an attempt to reinforce the door against the Defendant's strikes.

3 15. Defendant's actions caused the Health Center manager to call 911, and then to
4 direct staff to take refuge in a "safe room" in the rear of the Health Center.

5 16. Defendant did not stop beating on the door until police arrived at the Health
6 Center and apprehended Defendant, placing him in handcuffs.

7 17. Defendant told the police that they "need to watch this place."

8 18. Defendant's car, which he had parked in the Health Center parking lot, contained
9 a machete and several "army-style" bags containing netting, rip cord, tools, and camouflage clothing.

10 **V. CAUSE OF ACTION UNDER 18 U.S.C. § 248**

11 19. The United States incorporates herein the averments of paragraphs 1 through 18
12 hereof.

13 20. Defendant's conduct as described in paragraphs 9 through 18 hereof constitutes a
14 physical obstruction that intimidated and/or interfered with reproductive health service providers in
15 violation of FACE, 18 U.S.C. § 248(a)(1).

16 21. Defendant's conduct as described in paragraphs 9 through 18 hereof constitutes a
17 use of force that intimidated and/or injured reproductive health service providers in violation of FACE,
18 18 U.S.C. § 248(a)(1).

19 22. On information and belief, unless Defendant is restrained by this Court, Defendant
20 will again engage in the illegal conduct averred herein, or other similar illegal conduct targeted against
21 the Health Center.

22 **VI. PRAYER FOR RELIEF**

23 23. The United States is authorized under 18 U.S.C. § 248(c)(2)(B) to seek and
24 obtain temporary, preliminary, and/or permanent injunctive relief from this Court for Defendant's
25 violation of FACE.

26 24. The United States is further authorized under 18 U.S.C. § 248(c)(2)(B)(i) to assess
27 a civil penalty against a respondent no greater than \$10,000.00 for a nonviolent physical obstruction.

1 WHEREFORE, the United States respectfully requests judgment in its favor and against
2 Defendant, John C. Kroack, in the form of:

3 A. An Order prohibiting Defendant, John C. Kroack, from coming within 25 feet of
4 the Health Center property;

5 B. An Order prohibiting Defendant, John C. Kroack, and his representatives, agents,
6 employees and any others acting in concert or participation with him, from violating the Freedom of
7 Access to Clinic Entrances Act; and

8 C. A civil penalty assessment in the amount of \$10,000.00.

9 Dated this 11th day of March, 2011.

10 Respectfully submitted,

11 THOMAS E. PEREZ
12 Assistant Attorney General
13 Civil Rights Division

14 JONATHAN SMITH, Chief
15 JULIE ABBATE, Deputy Chief
16 Special Litigation Section

17 /s/ William E. Nolan _____
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25 Attorneys for Plaintiff United States of America

26 * Conditional Admission Pending